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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Sergei Mikhailovich Safronov

V-177

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EXAMINER

RADA, ALEX P

ART UNIT

PAPER NUMBER

3716

MAIL DATE

DELIVERY MODE

10/22/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 09/601,913	<b>Applicant(s)</b> SAFRONOV ET AL.	
	<b>Examiner</b> ALEX P. RADA	<b>Art Unit</b> 3716	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 17,21 and 23-30.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Dmitry Suhol/  
 Supervisory Patent Examiner, Art Unit 3716

Continuation of 11. does NOT place the application in condition for allowance because: The claimed invention does not disclose the RNG application similar by structure to the applied invention and based on the stochastic character of different natural process. The cited references to the natural stochastic process are all electrical type generating processes that are man made. The space waste moving outside the earth is not man made, meaning the space waste are moving freely outside the earth without any help from electrical/electronic type device. The space waste itself is man made, however the way the space waste moves outside the earth is not. Applicant submits that a random number generator (RNG) is defined as to generate the authentic random numbers and provide them to the customer. If a RNG is used to generate authentic random numbers and provide them to the customer, then how does space waste generate a numbers? The claimed invention is toward a space game and not towards natural stochastic process. How does the space waste moving freely moving in space used as a RNG? If the space waste or debris is moving freely in space, then how can a device be actuated if the space waste is randomly moving in space. The term actuation may be interpreted to be toggling or pressing of a switch. The definition of the word actuate is defined as: to make active; cause to function or act. How does the freely moving space waste become active, to cause to function or act when the space waste is already moving freely in space. The claimed limitation does not clearly provide, show or provide steps of how RNG is and accomplished by the claimed invention. The examiner request applicant to point in the disclosure the support for the applicant's argument regarding the stochastic characteristic. Applicant argues the stochastic characteristic process, however the noted feature is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. As discussed in the previous office action, Kitazawa discloses structurally applicants claimed invention as discussed above. As noted in MPEP 2114 a claim containing a recitation with respect to the manner in which the claimed apparatus intended to be employed does not differentiate the claimed apparatus from the prior art apparatus if the prior art apparatus teaches all the structural limitations of the claim. While features of Kitazawa are recited structurally, applicant's claims are directed to an apparatus that is not distinguished from the prior art in terms of structure rather than function. The only indication that claimed invention is a game is in the preamble. The body of the claim does not provide elements, rules procedures of an actual game play. The examiner has provided the broadest reasonable interpretation to applicant's claimed invention and references disclosing and/or teaching product appearing to be substantially similar in applicant's claimed invention.